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Letter to Timothy Coggins regarding Wes Daniels, April 27, 1992

Lennye Wellins

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April 27, 1992

Timothy Coggins
University of North Carolina
Chapel Hill, North Carolina 27599

Dear Tim:

Here is a list of Wes Daniel's awards and accomplishments.

AWARDS:

Dade County Bar Association Volunteer Lawyer, 1991

CONTRIBUTIONS:

Board of Directors and Executive Committee: Miami Coalition for the Homeless

Co-Director of a program for "Law and the Homeless" - this program produced a publication at the University of Miami, "HOMELESS LEGAL ADVOCATES'MANUAL", which was distributed to the poverty law programs and Law School libraries throughout the country.

Instrumental in getting classes in Poverty Law and Homelessness taught at the University of Miami Law School after a 10 year hiatus.

Advisor for Public Interest Law Group. (students)

The Homeless Pro Bono Project, jointly with Legal Services of Greater Miami and the Dade County Bar Association. (provides free legal service to homeless persons)

VOLUNTEERS AT:

Camillus House Concern
Beckham Hall
Miami Rescue Mission
Miami Womens and Childrens Shelter
The New Life Family Center

Member of ACLU Legal Panel Homeless Committee (Contributed substantially with research)

Published: University of Miami Law Review on the Homeless- Symposium issue.

LEGAL PERSPECTIVES

Casualties of War: Eviction of Public Housing Tenants for Alleged Criminal Activity

by Wes Daniels
Professor of Law

On the morning of April 27, 1990, Charlotte Jude and her two children were asleep in their public housing apartment in Ann Arbor, Michigan. Awakened by shouting inside the apartment, Jude soon found a gun pointed at her head. Told to leave immediately, she was allowed to use the toilet only after a search of the bathroom and then only under surveillance. The family was given fifteen minutes to gather their belongings before being forcibly removed. Although the judge had no warning of what was taking place, instant video cameras were there to capture the event.¹

A drug ripoff? A police search under a criminal warrant? Not a "salvage" of the tenant's household purportedly authorized by the civil forfeiture provisions of the Federal Controlled Substance Act? Welcome to the War on Drugs.

In an effort to rid public housing projects of the ravages of drugs, the federal government has in recent years deployed an aggressive, multi-faceted strategy designed to drive tenants from participating in or facilitating drug activity on their premises. While it is far from clear that the desired results have been achieved, what is clear is that the rights of innocent people have been trampled in the process.

The Case of the Disappearing Grievance Procedure

Until relatively recently, the trend over the past two decades had been to provide increased protection against eviction for public housing tenants. Under the thrust of legislation, the Federal Department of Housing and Urban Development (HUD) began to require public housing agencies (PHAs) to provide tenants some kind of hearing before eviction proceedings were instituted.² Courts mandated the same administrative pre-deprivation due process protections in the public housing context as had been required by the U.S. Supreme Court in *Caldwell v. Kelly* for welfare benefits.³ With a statement of reasons, the opportunity to confront and controvert evidence, and the opportunity to be heard, tenants were afforded a hearing before HUD. PHAs in the early 1970s then regulated a grievance procedure that became codified in regulations issued by HUD, which (at least in theory) remain in effect today. Under this procedure, tenants are entitled first to an informal settlement conference, followed if necessary by a more formal hearing and an administrative appeal before the PHA may institute an eviction action in state court.⁴

A number of attempts by HUD in the 1980s to weaken these protections were forestalled by Congressional action or litigation. Acting under a 1983 Congressional amendment to the Housing Act,⁵ however, and without housing regulations or notifying the affected parties, newly-installed HUD Secretary Jack Kemp in 1989 began to authorize PHAs to bypass the grievance procedure for drug-related evictions. Through the issuance of "due process determinations," or waivers, PHAs were allowed to dispose with administrative hearings in strict whose entire structure in eviction cases

were considered by the Secretary to meet due process standards. The waivers were later expanded beyond the drug context to cover evictions for any reason, and waivers were eventually issued for forty states. Court challenges to these actions are currently pending.⁶

Meanwhile, Congress further amended the Housing Act in 1990 explicitly to permit PHAs to opt out from the grievance procedure evictions involving allegations of either:

- (1) criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other tenants or PHA employees; or
- (2) drug-related criminal activity on or near such premises.⁷

HUD has very recently issued a proposed rule that would not only implement this statutory policy, but weaken the grievance procedure even further. If the rule becomes final, PHAs will not be required to offer grievance hearings if HUD determines state law provides sufficient judicial due process protections. Even when such a waiver has not been issued, however, PHAs will be authorized to adopt an expedited grievance procedure which dispenses of the informal settlement conference and allows the notification, scheduling and decision processes to proceed on a fast track. The regulation would also specify that, for drug-related activity, no showing of a threat to health, safety or right to peaceful enjoyment is required, and that its terms apply not only to the leaseholder but also to all household members and guests in the unit with the consent of a household member.⁸

Eviction Abuse

Although it is both legal and scrutable for PHAs to evict those whose criminal activity injures other tenants, an over-aggressive drug policy has resulted in harm to innocent leaseholders and family members.

It is apparently routine for some PHAs to evict tenants in whose apartments criminal activity has allegedly taken place on the basis of police reports or newspaper articles without further investigation. In the most recent case, a PHA has led to attempt to evict tenants whose former household members falsely give the tenant's address upon arrest and whose household members, though having committed a crime while living in the apartment, have subsequently moved out (sometimes to prison) before the PHA seeks to evict the remaining tenants.⁹

Less bizarre, but more common, are instances in which young children of the leaseholder are drawn into drug or other criminal activity without their parents' knowledge, or in which a parent for whom a custodial (grandparent) knows about the activity but is incapable of controlling it.¹⁰ It seems clearly shortsighted, as well as unfair, to create homeless people out of public housing tenants who cannot reasonably be considered culpable.

Although tenants represented by counsel may be able to defeat evictions, particularly in the most extreme cases, there are simply not enough

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¹ See *U.S. v. Property at 850 S. Maple*, Ann Arbor, Mich., 743 F. Supp. 505, 506-07 (E.D. Mich. 1990).

² 21 U.S.C. § 881(a)(7).

³ See *Thorne v. Housing Authority of Durham*, 303 U.S. 270, 82 S. Ct. 518 (1940) (upholding HUD's authority to issue binding regulations requiring PHAs to notify tenants of the reasons for eviction).

⁴ 397 U.S. 754, 90 S. Ct. 1011 (1970).

⁵ See *Faulkner v. New York City Housing Authority*, 425 F.2d 453 (2d Cir. 1970), cert. denied, 400 U.S. 853 (1970) and *Caulder v. Housing Authority of Durham*, 433 F.2d 398 (4th Cir. 1970), cert. denied, 401 U.S. 1003 (1971).

⁶ See *Sassetti v. District of Columbia*, 770 F.2d 184 (D.C. Cir. 1985). The regulations are codified at 24 C.F.R. Part 966.

⁷ Housing and Urban-Rural Recovery Act of 1983, Pub. L. No. 98-181, § 204, 97 Stat. 1153, 1178 (codified at 42 U.S.C. § 1437d(k)).

⁸ See National Housing Law Project, *Federal Housing Law Developments*, 24 Clearinghouse Rev. 1028, 1030-31 (1991).

⁹ Pub. L. 101-425, 104 Stat. 4079, amending 42 U.S.C. § 1437d(k).

¹⁰ 56 Fed. Reg. 6248 (Feb. 14, 1991).

¹¹ See Dryson & Youngs, *Crime, Drugs, and Subsidized Housing*, 24 Clearinghouse Rev. 435, 440 (1990).

¹² *Id.*

Continued from Previous Page

lawyers to go around. Many of the eviction abuses, thus, go undetected. It is precisely in those cases in which a tenant has no access to lawyers' services that the grievance procedure becomes most important. In that less formal setting, where the tenant can more effectively represent himself or be assisted by a law student, a paralegal or a more knowledgeable fellow tenant, outcomes are more likely to be reasonable.

Eviction by Forfeiture

Unsatisfied by the availability of streamlined eviction procedures, which nevertheless at a minimum require court hearings and some delays, Secretary Kemp in 1990 launched the National Public Housing Asset Forfeiture Project. The premise of this program is that the federal civil forfeiture statute¹³ permits federal marshals to evict anyone living in an apartment or house suspected of being used to facilitate a federal drug offense without any warning or prior hearing at which the tenant can respond to the charges before being removed from the premises.

In the Ann Arbor case described at the beginning of this article, a federal magistrate issued an ex parte seizure order on the basis of a local police affidavit describing two drug purchases by undercover officers in the apartment, one from "a visitor" and the other from "an unidentified seller."¹⁴

HUD's idea is to be able to bypass the eviction process entirely and evict tenants summarily. As insufficiently protective as many court eviction procedures may be, they at least provide prior notice (to allow tenants to prepare a defense or seek another place to live), the opportunity to confront adverse witnesses (as opposed to reliance on police hearsay based on statements of undisclosed informants), the requirement of a decision on the merits before removal (reducing the risk of erroneous deprivation at the heart of the *Goldberg* rationale), and protection against the loss of the right to occupy an apartment without any allegation of personal involvement in criminal activity.

Even the usually conservative American Bar Association has

strongly condemned this program, criticizing not only the civil liberties violations it permits but particularly the attempt by the HUD Secretary to prevent tenants in these cases from being provided representation by legal services attorneys.¹⁵ Courts have been quick to place due process limits on the implementation of this program, requiring a pre-seizure hearing at which the tenant can appear unless there are exigent circumstances, which can virtually never exist in the housing context (as opposed to a situation in which a mobile object like a car or boat can be invaded, concealed or destroyed).¹⁶

Although it appears unlikely that the Forfeiture Project will be allowed to flourish in its full intended scope, the attempt demonstrates the extent to which the federal government has been willing to go in prosecuting its version of the war on drugs, regardless of the consequences.

Alternatives

Since 1949, it has been Congressional policy to seek to realize "as soon as feasible" the goal of "a decent home and suitable living environment for every American family."¹⁷ The recent efforts of the national administration described above in many respects directly contradict that goal.

There are, of course, more effective alternatives to these methods of "cleaning up" public housing, and some are actually being attempted by HUD and PHAs.¹⁸

In some projects, tenants' organizations are assuming greater management responsibility. Compliance and cooperation increase as tenants have a stake in the success of programs they themselves have devised.

Reduced vacancies, physical alterations and tenant involvement with security can provide an environment in which drug trafficking is discouraged. Also promising are programs focused on drug treatment and prevention, employment and job training, and educational and recreational activities for young people.

Lawyers, as citizens, should support these constructive alternatives. Lawyers, as lawyers, should seek to assure that the "collateral damage" of the war on drugs is kept to a minimum.

13. *Supra*, note 2.

14. *Supra*, note 1, at 506.

15. A.B.A., *Public Housing Asset Forfeiture Resolution Report* (1990) (available from National Clearinghouse for Legal Services as Clearinghouse Document No. 46,110, 407 S. Dearborn, Suite 400, Chicago, IL 60605, (312) 939-3820).

16. See *U.S. v. Premise & Real Property at 4492 S. Libonia Rd.*, 889 F.2d 1258 (2d Cir. 1989) (seizure of home under forfeiture statute violates due process clause unless residents offered pre-arrested court hearing); *Richmond Tenants Organization v. Kemp*, 753 F. Supp. 607 (E.D. Va. 1990) (preliminarily enjoining HUD from evicting tenants under Forfeiture Project without notice and hearing absent exigent circumstances); 450 S. *Maple, supra*, note 1 (finding due process violation; stating finding of exigent circumstances would be "highly unusual" when a home is at stake; possibility of continued drug transactions in apartment not sufficient for finding of exigent circumstances).

17. Housing Act of 1949, ch. 358, §2, 63 Stat. 413.

18. See, generally, Bryson & Youmans, *supra*, note 11, at 435-39.

Brother, Can You Spare a Service Point?

by Richard Stern
Photo Editor

As my second year of law school nears its end, I can honestly say that I have been confused by many things. What exactly is the holding of *Butler v. Wolf Swenson*? Why do they call it Commercial Law? If there are no commercials? But there is one topic which has taxed my ability to comprehend more than anything else: that body called the Moot Court Board and those things they call "service points."

Service points, the all-powerful stepping stones that lead to membership on that august body, Service points, the incentive handed out in recognition of mental tasks that people would not otherwise do, Service points, the most blatant example of nepotism that I have ever witnessed in my quarter century on this planet.

Don't get me wrong, I'm not against service points per se. I realize that in its "selection process," the board needs some objective benchmark in close situations. I take offense to the manner in which they are handed out.

It seems to me that there is a large communication gap between the link of the student body and the Moot Court Board, or is it just me? I have anyone that ever seen an advertisement stating that the board was in need of people in witness or judge or even clean out their wastebasket? True or false - the opportunity to serve is supposed to be open to everybody, or, as in the case of judges, qualified second or third year students?

How are the points supposed to be distributed fairly if no one knows that they are available? It's been my experience that those who have a friend on the board have a markedly better chance at receiving points. I don't know how many times a certain friend of mine has told me that he was judging six practice rounds in a given week when I didn't even know that practice rounds had started. "How did you manage that?" I asked. "Oh, sound-by called me last night and asked me," he answered.

I'm sorry, but I think that this is wrong. Not only is the service point system creating a "tit for tat" mentality, it also clearly favors those who know the right people. Students will volunteer to perform services solely because of the incentive of getting a leg up on other board applicants, rather than for the

possible intellectual stimulation from learning about Muck Trial or helping with Moot Court.

I must, however, confess that I too have been approached by people I know who were in need of help. But the way in which I was approached truly insulted my intelligence. One day on the slab, a person I know who is on the board asked me if I was applying for the board. I said maybe and asked him why. He then asked me if I'd like to judge a practice round with him. I said yes, but to be honest I did so because I like to judge. I would have done it even if there were no points to be garnered. Another time, my phone rang and it was another board member, asking for my roommate. When I told her that he wasn't in, she asked if I would like to be a witness in a State Moot Trial Practice round. I thought it over for a second before I refused. I didn't want to be a witness, and I sure didn't think it was right to be recruiting in that manner.

What I'm trying to say is that there has to be a better way of letting people know that points are available. I know - what you're saying. "Hey, dummy, why don't you just go up to the Moot Court Board Office and ask them what's available?" Well, you're right, I could do that, but not everybody there is completely aware of where people are needed. And why should I have to make the trek up to the fourth floor of the library when the board has a showcase by the lounge? The only thing I've seen that used for is to inform me of who the state moot trial team is...for the past five months! Wouldn't it be simple to just a list of competitions or maybe a list of positions that need to be filled in a pinch? It kind of gives me a bad impression of the board when a member goes up to a person on the slab, grabs them by the shirt and says, "You have to witness for me!"

If the board wants more help, it ought to find a way to distribute their incentives in a more equitable fashion. As this year draws to a close and a new executive board takes over, I sincerely hope the situation can be remedied in some way. The way things are now, service points are tantamount to papal indulgences being distributed to a privileged few, with the rest of us doomed to an eternity in legal purgatory.

LAW AND THE HOMELESS: THE SYMPOSIUM

Wes Daniels
Law Librarian

This year, the University of Miami Law Review will devote its annual symposium issue to law and the homeless. In conjunction with that issue, established academics with practical experience working with the homeless were invited to discuss their work at a Symposium held at the Law School March 23 and 24. Several law review students whose pieces will appear in the issue also presented summaries of their research.

Dean Doyle's welcoming remarks on Friday evening referred to the event as "one of the most important symposia the Law School has ever sponsored."

The keynote address was delivered by Dr. Pedro J. (Joe) Greer, a nationally recognized expert on the medical problems of the homeless, founder and Medical Director of Camillus Health Concern and a Clinical Fellow at the University of Miami School of Medicine. The Miami Herald has described his style as "exuberant bedside medical evangelism," and through a combination of graphic medical descriptions and eye-opening slides of Miami's homeless and their living conditions, Dr. Greer fulfilled his avowed purpose of shocking the audience. He concluded with a story about two pregnant women he had recently encountered under one of Miami's bridges. "I saw the problem that I had once hoped to deal literally giving birth to a second generation of homeless in our city."

UCLA law professor Lucie White opened Saturday's all-day program by criticizing the conceptualization of poverty as a problem within individuals whose immutable characteristics predestine them to a life on the margin. Supporting that explanation by sought instead in larger, structural contexts. Professor White pointed to serious malfunctions in systems of production and distribution of low-income housing, and in job markets and income maintenance programs that leave people insufficient income to compete in a tight housing market. Major shifts in social priorities are essential, she believes. What will make a real difference to the poor is not our charity, but a response to the inequity of resource distribution in our society.

Some preliminary insights have emerged from an interdisciplinary workshop she is leading at UCLA. Professor White reported. The welfare system is designed to be too complicated for many people to negotiate, because politicians don't want people on welfare. The "real experts" on homelessness, women who are or have been homeless, say that what works is not fancy technologies of "case management," but contact with "loving people showing real concern" for them. Some of the same prejudices that exist in the larger society (such as racism, sexism and discrimination against the mentally disabled) exist as well among the very poor, requiring that stereotypes be challenged.

Homeless children, whose legal needs remain largely unmet, were the focus of University of Maryland law professor Stanley Herr's presentation. He traced a hypothetical family through the labyrinth of education bureaucracies, and suggested that it is hardly surprising when desperate homeless mothers give up trying to provide their children a meaningful school experience. The exponential effects of future generations of uneducated adults unable to compete in the work force raises, he fears, the specter of a cataclysm our society has so far been spared.

Homeless children face two kinds of obstacles. Residency and record requirements are used to deny or prevent admission of children to a public school. When a family has been moved to a shelter, the former and present school districts often play "hot potato" in an effort to place the responsibility elsewhere. Once in school, homeless students are ridiculed by their classmates, and find it difficult without remedial help to keep up with what is going on in the classroom.

The federal McKinney Homeless Assistance Act establishes some goals for resolving these problems, but it has little funding and minimal force and is therefore largely symbolic.

Professor Herr rejected as stigmatizing the idea of separate classrooms for homeless children. He suggested, however, that these children would be considered disabled by virtue of their homelessness, making them eligible for the panoply of special programs mandated by the Education for All

Handicapped Children Act.

He related the story of a ten-year-old girl testifying to a Congressional committee that all she wanted was a roof over her head, and for her classmates to stop teasing her because she is homeless. "Must Congress be ashamed before it will act?" he asked. "Must these children parade their miseries before us before we will listen?"

Professor Stephen Wizner, William O. Douglas Clinical Professor of Law at Yale, discussed advocacy for the homeless in the context of legal theory and social policy. He stressed the importance of litigation strategies, such as eviction defense or class actions to preserve deteriorating public housing units, that can have an immediate positive effect on the lives of people suffering greatly in extreme poverty.

He also described an innovative effort underway at Yale: a transactional clinic in which law students "do deals," representing nonprofit organizations that wish to create low-income housing. This type of experience attracts students who are not drawn to the more typical litigation-oriented clinical model, but who are eager to get involved in multi-million dollar real estate transactions.

He recommended Peter Rossi's recent book *Down and Out in America: the Origins of Homelessness*, and endorsed many of Rossi's solutions, including universal job training, increased public sector employment, more day care, and additional housing for single poor individuals. The fact that there are now relatively few elderly among the homeless indicates, he said, that some welfare programs really work, when they are "for people we really want to help."

Professor Curtis Berger, Lawrence A. Wien Professor of Real Estate Law at Columbia University, eloquently depicted the "housing indigency" endemic to our society. The relatively invisible problem of housing affordability is immense, he argued, and would probably escape notice were it not for the unavoidable presence of the homeless.

Housing should be a fundamental right, Professor Berger asserted, to be established statutorily rather than through constitutional interpretation. The heavy costs of implementing this right could be borne in part by decreased mortgage interest deductions and increased property taxes, and through savings realized from abandoning current, extraordinarily expensive methods of providing temporary shelter.

While housing alone does not work without infrastructural supportive services, he acknowledged, a support network does little good without housing. Both are needed.

Three of the Law Review student authors made presentations that were very well received, and that merited extensive comment in a *Miami Herald* article on the Symposium. (The other three students — Don Baker, Pat Phillips and Daryl Shapiro — have also done excellent work, and their notes will appear in the symposium issue.)

Suzanne Sleep analyzed and criticized a recent New York Court of Appeals decision (*Schwartz Associates v. City of New York*, 71 N.Y.2d 32, 542 N.E.2d 1059, 544 N.Y.S.2d 342 (1989)) that invalidated a New York City ordinance preventing demolition of, and requiring the rental of, existing single-room occupancy buildings. Disappearance of these units has led directly to an increase in New York's homeless population.

Camilla Cochran, developing in greater depth points raised in Professor Herr's presentation, described the McKinney Act's attempts to deal with the problem of educating homeless children, and the response of the states to the goals articulated in that legislation.

Michael Diehl characterized the mistaken denial of disability benefits as both a cause and a consequence of homelessness. He offered new standards for reviewing physical and mental disabling conditions experienced by homeless people that are often overlooked or discounted by evaluators.

Among the many things I learned at the Symposium was a street handshake taught to me by "Swamp Man," who attended every session and told me he was going to "bring back the information to the guys on the street."

When the Symposium ended, a woman approached me to thank us for our program. The previous evening she had asked whether she could park her car, beat up and filled to capacity with her belongings, somewhere nearby. Otherwise she couldn't afford the gas to return for Saturday's presentations. "I learned a lot," she said. "I hope I can find more of these programs. Especially ones that serve food."

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The Free Press

October 8, 1991

Law and the Homeless-

by Andrea Yaghoob
Features Editor

For the second consecutive summer, the law school offered a Summer Public Interest Seminar Program focusing on "The Law and the Homeless."

Fifteen students were selected to participate in the program which ran for ten weeks.

Wes Daniels, Law Librarian and Professor of Law, and Gale Lucy, a 1989 graduate of the law school who has extensive experience working with homeless people and their legal problems, served as program directors.

Each student was placed in one of the following organizations: Guardian ad Litem program, Legal Services of Greater Miami, Public Defender's Office, Homeless Legal Project, Italian Refugee Center in Florida Rural Legal Services.

The summer program, and the Law and the Homeless Workshop offered last spring, encouraged law student involvement in public interest law.

"It was definitely one experience you couldn't pay for," Frances Aron, a 2L, who participated this summer said. "For me it was just my first year and I got to actually see how law works, at least in the criminal field. I saw a lot of trials and it helped me see whether this was something I wanted to do."

Each student interviewed, who took part in the program, wanted to make one thing

clear from the start: Homelessness is not as narrowly defined as people think.

According to Kamela Malone, a 3L, who was part of the program last summer, "It's not just people who are living under I-95. It's broader than that. Basically it's anybody who's living below the poverty level. A lot of Americans are just one paycheck away from the poverty level anyway."

"I'm really glad I was in the program but I have really mixed feelings about it," Aron, who worked in the misdemeanor division of the Public Defender's office, said. "The Public Defender's office is really good and really kind in that you see the best and the worst. The people who work there are generally very dedicated and want to do something. But then, on the other hand, they have so many clients that they can never really do justice to any one client."

Stephanie Hahn, a 3L who worked with Gale Lucy at the Homeless Legal Project, added, "There was overall frustration in the system. It's just enough where you have people with actual cases that need to be litigated, but that's kind of the exception, most of it is just people who are so pulled under that they don't have access to the information or services and just need someone to sit down and say what you need at A, B, and C."

St. Augustine Waterman worked at Legal Services and had this to say: "It can get frustrating because at some point you

"What I remember very distinctly is that there was this man who was in his 60s from some Caribbean island who had a wrong ankle as I remember, and had been working as a truck driver for a long time. Something happened to his shoulder and his other arm was deformed so he couldn't turn the wheel on the truck anymore. He was supposed to get his arm operated on but he didn't have the money and he didn't know where he was supposed to go. Also, he was worried that if he got his arm operated on, something would happen and he'd be totally incapacitated. He was scared. In the meantime he was getting richer out of his house because he was losing the Dade County emergency money."

"We were able to talk to the landlord of his house about the procedures they'd have to go through before they could evict him. Just because he couldn't come up with the money that day didn't mean he'd get kicked out that day like he'd thought."

"We had all these other things in my mind and now, where's he going to stay? We were able to help him at least deal with that situation that week. And then I gave him a couple of weeks later and he was getting ready to go into the hospital so it looked like things were coming together for him. So it was just nice to be able to see something work even if it was a small thing."

-Nora Watlock, 3L, Homeless Workshop Class

realize there are so many problems. For me, sometimes I thought all we were doing was giving them small solutions and it seemed like there was something else, something larger we should get at but unfortunately we could never get it."

"Basically you can get the ball rolling," Nora Watlock, a 3L who took the Law and the Homeless Workshop offered last spring, said. "If they need aid then you help them with the forms and tell them where to go. That's not to sound as simple as it sounds, but you get the ball rolling and you feel like you're doing something. And you

also let them know that someone cares."

Most of the students had not decided whether they would go into public interest law when they graduated. However, they did say that they would incorporate it into their practice in some way.

"It doesn't take much for you to make a few phone calls for them," Hahn said. "But for them it means a lot. It's not only the clients who benefit. You gain so much too. Even though you know there's a lot you can't do, it makes you feel good to know you're doing something."

Wes Daniels: A Dedicated Teacher

by Andrea Yaghoob
Features Editor

"It's not that problem. It's your problem. So don't ask us to solve it."

This is a pretty typical argument today despite the age of a kinder and gentler nation. It could refer to any number of issues. The homeless just happen to be the group of choice, and attitudes are worsening.

Miami police arrest the homeless for trespassing if they are on private property, or for not complying with city regulations if they are on public. Police chase the homeless from lots not only to find them relocated under I-95, but also to find the homeless will just leave town.

The American Civil Liberties Union filed a lawsuit a few years ago that is still pending to try to prevent the homeless from being arrested just because they are homeless.

Wes Daniels, professor of the Law and the Homeless Workshop offered in the spring semester, thinks attitudes toward the homeless are worse in Miami than in any other major city.

"There was a period in which people were becoming aware of the homeless problem and were sympathetic," Daniels said. "But now we're in a backslip period when people are fed up with homeless people."

"The homeless really are not a separate group from ordinary poor people in society," Daniels said. "They're kind of a far point on the continuum. There's really nothing inherently different about these people from other poor people, other than that they've just fallen off the far end."

Students who participate in the Workshop meet with the homeless at Miami's Children's House to answer their legal questions.

"The idea behind the workshop is to get people to do field work and also have a classroom component to deal with the background issues," Daniels said.

The students do a lot of intake work. Then later, a law firm attorney is assigned to the person and on Saturday get them with the information the student collected.

The homeless face the same legal problems as a lot of people encounter, including issues of family law, child custody, divorce, wills and personal injury.

"Sometimes basically it's a social work issue—not a legal problem," Daniels said. "There are social workers that the homeless can be referred to. Sometimes, it's a legal problem that's very simple and straightforward. You can give the person a direct answer. Like for example, if someone wants to know whether they qualify for a certain program, and they already don't meet one of the requirements—that's an answer they can give right away."

"It's like people in crime scene. From the workshop with some feeling of commitment to it, it's something they and the legal for people who can't afford lawyers," Daniels continued. "Whether that's a career in public interest law then that's great, but even if people come away and don't do that, and many people want to work at least some extent that it's part of a lawyer's professional responsibility to do something in legal services or at least work."

There is a lot of ideology behind why people are homeless," he added. "It's a philosophy of individualism—the way we've made it. Anyone who works hard enough can achieve and if you haven't achieved it's because you haven't worked hard enough."



Wes Daniels



"There was a young 12-year-old girl who was not a delinquent but was assigned to our office by a judge because she was a mother witness for a case and because she had a place to go. For some reason she had the opinion her grandmother wouldn't take her, her mother was in jail, so she was in juvenile detention with people who had committed crimes."

When I did try to talk with a guardian ad litem and others to try to find her shelter because that's where she belonged. There was no safe shelter because the girl was terrified of people and was a prostitute and was dangerous. It was a matter of when she was found in the street, she was a 12-year-old girl in the detention center who was doing nothing wrong and there was no place for her to go."

"It worked so much as it can work. They found her a temporary shelter down in Key West but this girl was only 12 and she had never been to Key West and she knew anyone there and all of a sudden she's down there just for something she didn't do. I got it worked out for safety, and eventually I doubt it, but then I really didn't see any case that worked out continually."

-Kamela Malone, 3L, Dade County Public Defender's Office

Law students get experience working with homeless

When Wes Daniels first began thinking about offering a seminar on Law and the Homeless, his greatest fear was that no one would sign up.

But his fears proved groundless when 15 students enrolled last spring, and the administration and students later urged him to offer it again the next semester.

Daniels, the law school's librarian, had been interested for some time in providing a course in the area of poverty law—an area where most law schools are lacking. "I chose homelessness because it's such an urgent social problem," he says. "Homelessness is one extreme area of poverty in which there are many difficult issues. It's an area I wanted to develop an interest in and wanted the students to develop an interest in. We're learning a lot of it together."

During the course of the semester students are introduced to some of the basic legal needs of homeless people and the sources of law for dealing with those needs. And in a city like Miami where the number of homeless is overwhelming, the students don't need to read books to learn about life in the streets. They learn quickly by working on real-life cases with Legal Services of Greater Miami, the Legal Aid Society, or the volunteer lawyer's program of the Dade County Bar Association.

"The lawyers are thrilled to have the students work with them," says Gale Lucy, a recent graduate who is co-teaching the workshop with Daniels. "All of these programs have funding problems so they can never hire a staff for all of their needs."

Students deal with a variety of issues from

tenant problems. This semester two students are working on individual cases with Legal Services of Greater Miami: one is helping a 17-year-old homeless girl, an alleged prostitute with AIDS who cannot get accepted into a shelter because of her illness; another student is working on a case to provide shelter for a couple who is otherwise at risk of having their children taken away.

Realistically, Daniels doesn't see this workshop as an incentive for students to go into public interest law. There are few paid opportunities in the field.

"I don't necessarily measure our success rate by how many students go into this type of work," says Daniels. "But one of the goals of this enterprise is to sensitize students who are going into traditional corporate law-type jobs to be aware of the problems and to encourage their firms to provide opportunities for their lawyers to do some of this *pro bono* work."

That's definitely what fourth-year student Virginia Bradford plans to do when she finds a job in the legal field. While attending law school in the evenings, the former teacher has been working in the Dade County Public Schools' AIDS Information and Education Office. She plans to use her background and experience to help the homeless—particularly in women's and children's issues.

"I'm so pleased that the University is committing people and resources to this kind of work, which is so needed in this area," says Bradford, who is taking the homeless workshop this semester. "It's so refreshing to be out of the classroom and to be able to work in the field—to

be able to give something back. I think that's an altruistic motive is in all of us. I'm glad we can do something about it."

One of the reasons Daniels believes the course is so popular is a trend he sees toward a more socially conscious era. "I was a student at a time when there was lots of interest in social, progressive kinds of things," he says. "Now I'm noticing somewhat of a return to that ethic of the 1960s in which a greater number of students are broadening their horizons."

In fact, an upcoming symposium issue of UM's *Law Review* will be devoted to law and the homeless, and the students have been consulting with Daniels about his experience. In conjunction with that issue, a symposium will be held on March 23 and 24 featuring keynote speaker Joe Greer, University of Miami liver specialist, who started a free health clinic in Overtown more than four years ago. Four law school faculty from UCLA, Yale, the University of Maryland, and Columbia who have done work in the area of law and the homeless will speak as well.

"Lawyers alone cannot solve the problem of homelessness, and litigation is unlikely to have the long-term impact that certain kinds of legislation can have," says Daniels. "But nevertheless, clever and committed attorneys have been able to achieve some victories that provide, at least temporary relief for those trying to maintain a minimal level of existence on the streets."

Homeless kids' numbers and needs on rise

By LOURDES FERNANDEZ
Herald Staff Writer

Children are the fastest-growing segment of America's homeless population, and they often are the most undercounted, unrepresented and unheard from, said speakers at a Saturday symposium on law and the homeless.

About 100 lawyers, students and homeless advocates attended the meeting, held at the University of Miami School of Law in Coral Gables.

Forty percent of homeless people are families with children, said University of Maryland law professor Stanley Herr, who has written a pro bono manual for lawyers.

The estimates of homeless, school-age children in the United States vary widely — from 220,000 to 800,000, Herr said. About 67,000 of those are not receiving any type of education, according to numbers from the U.S. Department of Education.

In South Florida, one-fourth of the 17,000 homeless are children, according to a study done by Barry University.

For the parents — in many cases, single mothers — there are so many barriers that children often are never enrolled in school. Children may not have their birth certificates or immunization records, both of which are needed to enroll. They move so

often that changing schools becomes difficult, and when there are school records, they often don't catch up with the children.

Once in school, homeless children usually need special education programs, since many have fallen behind, said law student Camilla Cochrane, who wrote a paper for The Miami Law Review on educating homeless children. Many times, they don't get additional tutoring or help.

"There is a paradox," Cochrane said. "The condition of homelessness makes it difficult, if not impossible, for children to attend or benefit from school. But no other institution can help as much in breaking the

cycle of homelessness."

Law student Michael Diehl said the homeless, especially those with mental illnesses, face another problem: receiving disability pay from the government. It is not always easy for them to prove they are mentally ill, and some tend to hide their illnesses.

"If you are schizophrenic or have a mental illness, how are you going to bring about documentation?" Diehl said. His recommendation: that the criteria used by the government be changed, so a person only need prove that he has been diagnosed or institutionalized with a mental illness at some

time.

The symposium was the first of its kind in Miami, said organizer Wes Daniels, a law professor at the University of Miami.

"It's an urgent social problem," said Daniels, who teaches a course on the subject. "We're trying to encourage law students to get involved in social issues, rather than making the most money they can when they graduate from law school."

Lawyers, said professor Herr, "have the task of making visible the invisible people. The simple act of providing legal services makes a person feel worthy. It can be a turning point in a person's life."